

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

KMART CORPORATION,)	
)	
Plaintiffs,)	
)	
vs.)	Case No. 4:08CV01682 ERW
)	
14 OAKS ASSOCIATES, LLC,)	
)	
Defendant.)	

MEMORANDUM AND ORDER

This matter comes before the Court on Plaintiff's Motion for Leave to File First Amended Complaint Pursuant to Rule 15(d) [doc. #13]. A hearing was held on April 28, 2009, and the Court heard arguments from the Parties on this Motion.

Plaintiff's lawsuit was filed on October 31, 2008, and Plaintiff alleged three claims based upon Defendant's failure to maintain areas of the property Defendant leases to Plaintiff. The Court entered a Case Management Order setting deadlines in this case, including a March 16, 2009 deadline for motions to amend the pleadings.

Plaintiff asks the Court for leave to amend the complaint to add two counts related to an additional breach of the lease that occurred on March 17, 2009. This event happened after the Court's deadline for amending pleadings, however, Plaintiff asserts that adding these claims would not prejudice either party because they are based on the same contractual agreement and involve the same parties, property, witnesses and evidence.

In response, Defendant states that the new claims are based on a new theory, unrelated to the previous claims and facts. Defendant adds that these claims may require the joinder of


additional parties and would prejudice Defendant. At the hearing on this Motion, Plaintiff's counsel stated that he did not foresee joining additional parties to this lawsuit.

The Federal Rules state that courts may accept supplemental pleadings, "setting out any transaction, occurrence, or event that happened after the date of the pleading to be supplemented." Fed. R. Civ. P. 15(d). The Court notes that there are competing interests in this case, however, the Court finds that allowing Plaintiff to file the First Amended Complaint is appropriate. While this amendment adds a different claim and different facts, it has only been a short time since the Case Management Order deadline and the Parties have not conducted much discovery. If the Court denies this Motion, Plaintiff would be forced to bring peripheral litigation in state court, which is contrary to principles of judicial economy. Leave to amend a complaint "shall be freely given when justice so requires," and Plaintiff's Motion will be granted. Fed. R. Civ. P. 15.

Accordingly,

IT IS HEREBY ORDERED that Plaintiff's Motion for Leave to File First Amended Complaint Pursuant to Rule 15(d) [doc. #13] is **GRANTED**.

Dated this 29th day of April, 2009.


E. RICHARD WEBBER
UNITED STATES DISTRICT JUDGE